

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

SOLON PHILLIPS  
4801 Bartletts Vision Dr. Bowie, MD  
20720 202-253-1897,

Plaintiff,

v.

JP MORGAN CHASE, et al.,  
Defendants.

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CIVIL ACTION FILE  
NO. 1:11-CV-2194-TWT

ORDER

This is an action seeking to set aside a foreclosure sale. It is before the Court on the Report and Recommendation [Doc. 10] of the Magistrate Judge recommending that the Defendants' Motion to Dismiss [Doc. 2] be granted. A complaint should be dismissed under Rule 12(b)(6) only where it appears that the facts alleged fail to state a "plausible" claim for relief. Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009); Fed. R. Civ. P. 12(b)(6). A complaint may survive a motion to dismiss for failure to state a claim, however, even if it is "improbable" that a plaintiff would be able to prove those facts; even if the possibility of recovery is extremely "remote and unlikely." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 556 (2007) (citations and quotations omitted). In ruling on a motion to dismiss, the court must accept factual allegations

as true and construe them in the light most favorable to the plaintiff. See Quality Foods de Centro America, S.A. v. Latin American Agribusiness Dev. Corp., S.A., 711 F.2d 989, 994-95 (11th Cir. 1983); see also Sanjuan v. American Bd. of Psychiatry and Neurology, Inc., 40 F.3d 247, 251 (7th Cir. 1994) (noting that at the pleading stage, the plaintiff “receives the benefit of imagination”). Generally, notice pleading is all that is required for a valid complaint. See Lombard’s, Inc. v. Prince Mfg., Inc., 753 F.2d 974, 975 (11th Cir. 1985), cert. denied, 474 U.S. 1082 (1986). Under notice pleading, the plaintiff need only give the defendant fair notice of the plaintiff’s claim and the grounds upon which it rests. See Erickson v. Pardus, 551 U.S. 89, 93 (2007) (citing Twombly, 550 U.S. at 555). For the reasons set forth in the thorough and well reasoned Report and Recommendation, the Plaintiff’s Complaint fails to set forth a plausible claim for relief. The Court approves and adopts the Report and Recommendation as the judgment of the Court. The Defendants’ Motion to Dismiss [Doc. 2] is GRANTED. The Defendants’ Motion to Strike [Doc. 7] the proposed Amended Complaint is GRANTED.

SO ORDERED, this 22 day of March, 2012.

/s/Thomas W. Thrash  
THOMAS W. THRASH, JR.  
United States District Judge